



DEPARTMENT OF COMMERCE & INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 22-01

Termination and Placement of Insurance Coverages

Issued: February 2, 2022

The following Bulletin is issued by the Missouri Department of Commerce and Insurance ("Department") to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, and is not binding on the Department. See section 374.015, RSMo.

To: All insurers writing insurance coverages in the State of Missouri

From: Chlora Lindley-Myers, Director

Re: Termination and Placement of Insurance Coverages

This Bulletin is issued to provide information regarding the practice of replacing insurance coverage terminated by one carrier ("terminating carrier") with insurance coverage provided by a different carrier ("new carrier"). There appears to be uncertainty in the marketplace regarding the consumer consent required to be obtained by the new carrier to issue and bind coverage after coverage is discontinued by the terminating carrier. Specifically, the question has arisen whether a new carrier may collect data from the terminating carrier or its producers, without an application from the consumer, and simply issue new policies or new certificates of coverage to those consumers whose policies or certificates are being non-renewed by the terminating carrier. This bulletin only applies where an offer of coverage to consumers is made by a new carrier who is unaffiliated with the terminating carrier.

A contract of insurance, like other contracts, requires a meeting of the minds of the parties to the contract. See *Byrne v. Prudential Ins. Co. of America*, 88 S.W.2d 344 (Mo. 1935); *Helmkamp v. American Family Mutual Insurance Company*, 407 S.W.2d 559 (MO. App. S.D. 1966). Where the consumer has not submitted an application for coverage, some other affirmative consent is required from the consumer to establish a meeting of the minds, and for the new carrier to bind coverage or issue a policy or certificate to a consumer. A policy or certificate issued to a consumer without application or affirmative consent is not a valid contract.

The provisions of Section 375.936.6 RSMo regarding misrepresentations of insurance policies are implicated where an insurer or producer enrolls a consumer in insurance coverage or issues an insurance policy or certificate without the affirmative consent of the consumer. In addition, 15 CSR 60-8.060 prohibits of the use of negative option plans. The use of an opt-out or negative option methodology is not sufficient to show affirmative consent, nor is the payment of premium, in and of itself, sufficient to show affirmative consent. Affirmative consent, in this instance, means an affirmative statement, either verbally or in writing, that indicates acceptance of the offer of coverage.

Any questions or comments regarding this Bulletin should be directed to Teresa Kroll at marketconduct@insurance.mo.gov

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INSURANCE BULLETIN 22-02

Updated Disaster Contact Information

Issued: February 18th, 2022

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To: All insurers issuing policies covering real or personal property in Missouri

From: Chlora-Lindley Myers, Director

Re: Updated Disaster Contact Information

In anticipation of the upcoming spring storm season, and to ensure prompt and efficient communications with the insurance industry following a disaster, the DCI requests each insurer insuring real or personal property in the state to provide the following contact information to the DCI:

- **Primary regulatory contact:** This contact should be available to directly communicate with the Director and senior DCI leadership following a disaster within the state. These would be high-level communications about the DCI's response efforts, the company's response efforts, logistic issues and other urgent regulatory matters following a disaster.

- **Secondary regulatory contact:** This secondary contact should be able to discuss non-urgent regulatory issues with DCI staff as well as participate in industry conference calls and meetings regarding disaster response matters.
- **Communications contact:** This contact should be available to discuss inquiries received from press outlets and to coordinate joint communication and consumer outreach efforts.

For each insurer contact type identified above, the DCI is requesting contact information (name, title telephone numbers, email address) be submitted on the accompanying [Excel spreadsheet form](#). Responses can be emailed to CompanyContacts@insurance.mo.gov

Where there are multiple insurers within a larger group, a single response may be submitted if the individuals identified for the larger group can speak to the issues identified above for each insurer within the group.

Any questions or comments regarding this Bulletin should be directed to the Market Conduct Examination Section by telephone at (573)751-2430 or you may utilize the email provided above.



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INSURANCE BULLETIN 22-03

Health Insurance Rate Filings - Filing Dates for Plan Year 2023

Issued: March 15, 2022

The following Bulletin is issued by the Missouri Department of Commerce and Insurance ("Department") to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, shall not be considered a statement of general applicability and is not binding on the Department. See § 374.015, RSMo (2016).

To: Health carriers writing health insurance or health benefit plan coverage in Missouri

From: Director Chlora Lindley-Myers

Re: Health Insurance Rate Filing Key Dates (2023 Plan Year)

This Bulletin provides notice to health carriers of key filing dates for health benefit plans that will be offered during 2023, as required by §376.465, RSMo (2016)¹, and 20 CSR 400-13.100. These dates are based on current federal guidance, and are subject to change.

As of the date of issuance of this bulletin, Congress has not taken action to extend beyond calendar year 2022 the expanded eligibility for Advanced Premium Tax Credits enacted as part of the American Rescue Plan. The Department's expectation for the 2023 plan year is that carriers will file **ONE** set of rates and outline their assumptions in the actuarial memorandum. The Department will not accept a rate filing with multiple rates for multiple contingencies for plan year 2023.

¹ All statutory references herein are to RSMo (2016) unless otherwise noted.

For plan year 2023, the Department strongly encourages carriers in the individual market to assume that Cost Sharing Reduction (CSR) payments will not be made by the federal government, and to apply the CSR payment load only to Silver plans sold on the exchange. Furthermore, carriers are strongly encouraged to include in their actuarial memorandum the amount of CSR load included in the silver plan rates and the methodology for determining the load.

Summary of Filing Timeframes for Plan Year 2023

<u>Type of Plan</u>	<u>Filing Timeframe</u>
Single Risk Pool – Plans in Individual and Small Group ACA markets	File between June 18, 2022 and June 22, 2022 to meet federal and state guidelines.
Transitional	File at least 60 days prior to use. Filings, which include finalized rates, that are submitted on or before August 17, 2022 will have their reviews prioritized. <u>Filings submitted later than August 17 may have reviews extend beyond the intended implementation date.</u>
Grandfathered	File at least 30 days prior to use.
Student Health Plans	File at least 60 days prior to use.
Other Health Benefit Plans (Dental, Vision, etc.)	File at least 30 days prior to use.

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For additional detail regarding the timeframes in the chart above, please see the following sections.

Applicability

The purpose of this Bulletin is to announce rate filing timeframes for plan types subject to a determination of “reasonableness” pursuant to §376.465.7. For ease, this Bulletin will refer to the following plans as “Subsection 7 Plans”:

- “Health benefit plans” as defined in §376.465 (*excluding* plans sold in the large employer group market);
- Individual and small employer group plans subject to the requirements of the single risk pool;
- Student health plans; and
- Transitional plans.

Section 376.465 specifies the timeframes applicable to rate filings for all other health benefit plans including, but not limited to, grandfathered plans and excepted benefit plans.

File Rates for Individual and Small Group ACA Plans No Later than June 22, 2022

The Centers for Medicare and Medicaid Services (CMS), Center for Consumer Information and Insurance Oversight (CCIIO) designated Missouri as an “Effective Rate Review” state in 2017. To retain that status, the Department must ensure rate filings meet federal guidelines. This Bulletin serves to indicate that the Department intends to follow federal filing and posting guidelines to the extent possible under Missouri law.

For Plan Year 2023, proposed rates for Individual and Small Group ACA plans must be submitted to the Department no earlier than June 18, 2022, and no later than June 22, 2022.

Federal law exempts student health plans from the filing deadlines applicable to single risk pool plans. Likewise, federal guidance indicates that transitional plans have different deadlines than single risk pool plans. However, in order to comply with Missouri law, rates for student health plans and transitional plans should be filed with the Department at least 60 days prior to the proposed effective date.

Post Proposed Rates for Individual and Small Group ACA Plans – July 27, 2022

Current federal guidelines require “Effective Rate Review” states to post proposed rates for single risk pool plans no later than July 27, 2022. The Department does not intend to post proposed rates earlier than this date.

Optional Quarterly Rate Filings for the Small Group Market

Current federal law permits single risk pool plans in the small group market to adjust rates as often as quarterly. As Missouri law does not limit the frequency of rate filings, health carriers may submit quarterly rate filings for small group market plans.

- 2023 Plans: Health carriers should submit rate filings by June 22, 2022. Rate filings for subsequent quarters should be filed at least 60 days prior to the proposed effective date, as required by §376.465.

Transitional Plan Rate Filings

Missouri law doesn’t differentiate between transitional plans and other Subsection 7 plans. Therefore, transitional plan rates must be filed at least 60 days prior to implementation, and are subject to the same standards of review as other Subsection 7 plans. However, while current federal guidance for transitional health plans only requires rate submissions where the proposed rate increase exceeds the federally identified rate review threshold, under Missouri law all transitional plan rate changes must be filed with the Department, regardless of the magnitude or direction of the rate change.

Please note, for transitional plan rate changes that are less than the federal threshold, the Department will not require companies to also file concurrently with CMS per 20 CSR 400-13.100(8).

For Additional Rate Filing Guidance

General Instructions are available via the System for Electronic Rate and Form Filing (SERFF) for Missouri. Additional filing guidelines will be posted on the Department’s website and updated as necessary.

Rate Filings for other Health Benefit Plans

For filing requirements applicable to grandfathered and excepted benefit plans that are not Subsection 7 plans, please see §376.465. For dental plans that a health carrier or licensed pre-paid dental plan intends to make available on the exchange, rates must be filed in accordance with §376.465, or thirty (30) days prior to the intended effective date.

Any questions or comments regarding this Bulletin should be directed to Camille Anderson-Weddle at 573-522-3311 or Camille.Anderson-Weddle@insurance.mo.gov.